SOFTWARE LICENSE AND SUBSCRIPTION AGREEMENT

IMPORTANT – PLEASE REVIEW CAREFULLY THE TERMS OF THIS SOFTWARE LICENSE AND SUBSCRIPTION AGREEMENT. BY CLICKING "ACCEPTED AND AGREED TO," CUSTOMER AGREES TO THESE TERMS AND CONDITIONS.

This Software License and Subscription Agreement (this "Agreement") is a contract between BeyondTrust Corporation, a Delaware corporation ("BeyondTrust") and the corporation, LLC, partnership, sole proprietorship, or other business entity executing this Agreement ("Customer"). This Agreement is effective as of the Effective Date (as that term is defined on Exhibit A). Customer's use of and BeyondTrust's provision of the products and services described herein, defined in Exhibit A as the "Software or Other Offerings," is governed by this Agreement.

This Agreement includes the Standard Terms and Conditions below ("Standard T's & C's") and Exhibit A, which is incorporated into this Agreement. Capitalized terms not defined elsewhere in this Agreement are defined in Exhibit A. In the event of a conflict with the terms of an Exhibit, the Standard Terms & Conditions will govern.

STANDARD TERMS & CONDITIONS

1.1 ACCESS AND USE OF THE SOFTWARE.

(a) **License.** Subject to the terms and conditions of this Agreement and Customer's payment of all applicable fees, BeyondTrust hereby grants Customer a nonexclusive, nontransferable, non-assignable, revocable, personal right and license (a "Permitted License") in the Territory (defined below) to install and use the Software, as applicable and as specified on each Order: (i) on the number of physical and virtual machine(s) designated on the Order and located at the physical location(s), if any, designated in the Order, or (ii) on the number of Managed Computer Objects set forth in the Order; (iii) to manage the number of IP addresses indicated on the Order, (iv) on the number of Active Logins specified in the Order, (v) on the number of Active Endpoints, (vi) on the number of Managed Servers specified on the Order, or (vi) on the number of Managed Devices specified on the Order and, in all cases, to use the Documentation provided in connection with such Software. Customer's use of the Software is limited to the number of Permitted Licenses set forth in the Order. If Customer desires to use the Software in excess of the Permitted Licenses, Customer must obtain the written consent of BeyondTrust and pay the then-current Software license fee and transfer and/or upgrade charges. "Territory" means worldwide unless otherwise agreed in the Order (subject always to applicable export restrictions).

(b) **Cloud Services Subscription (If Applicable).** For Software or Other Offerings that have a Cloud Services deployment option selected by Customer on the Order, BeyondTrust hereby grants Customer a subscription to access and use the Cloud Services, both for internal use and in support of Clients, consistent with the goals and requirements of such Order. Customer may access the applicable Software through Cloud Services (instead of under an on-premise deployment license) solely to facilitate the use and administration of the applicable Software.

(c) **Restrictions on Software or Other Offerings.** All rights to Software or Other Offerings not expressly granted under this Agreement are reserved to BeyondTrust, and no rights are granted by implication. Without limiting the generality of the foregoing, Customer shall not: (i) modify, create derivative works from, distribute, publicly display, publicly perform, or sublicense any Software or Other Offering, including without limitation through any loan, encumbrance, or lease; (ii) access or use any Software or Other Offering or BeyondTrust's Confidential Information to create a product or service similar to or competitive with any Software or Other Offering; (iii) time-share any Software or Other Offering or use it in a service bureau arrangement or for the benefit of any third party; (iv) permit or allow any person to remove any proprietary or other legend or

restrictive notice on any Software or Other Offering or containing media; (v) permit any person to reproduce any such media or Software or Other Offering except as specifically provided in this Agreement; (vi) use the Software or Other Offerings to distribute or otherwise support any software or computer file that contains a virus, worm, Trojan horse, or other harmful component; (vii) use any Software or Other Offering for any illegal activity; (viii) use any Software or Other Offering to disrupt or interfere with any other networks, websites, or security; (ix) use any Software or Other Offering to infringe any third party's intellectual property rights; (x) use any Software or Other Offering to distribute any libelous, harassing, defamatory, violent, illegal, vulgar, offensive, slanderous, or otherwise objectionable material of any kind; (xi) use any Software or Other Offering to gain unauthorized access to computer systems or devices; (xii) use any Software or Other Offering under false pretense to gain access to a third party's computer, network, or information; (xiii) in any manner or under any circumstances use, copy, modify, enhance, merge, reverse engineer, reverse assemble, decompile, disassemble or in any way alter any Software or Other Offering or any copy, adaptation, transcription, or merged portion thereof or otherwise attempt to derive source code therefrom; or (xiv) disclose to any third party the results of any benchmark or other tests of any Software or Other Offering. Customer shall maintain all BeyondTrust's copyright, trademark, and other notices on the Software, Hardware, and Documentation and shall reproduce such notices on any and all partial or full copies.

1.2   *DOCUMENTATION & TEMPORARY USE SOFTWARE.*

(a)   ***Documentation***. Customer may access and use Documentation solely to support use of the Software or Other Offerings as authorized in this Agreement.

(b)   ***Beta & Evaluation Software***. BeyondTrust hereby grants Customer a license to install and use Beta Software and Evaluation Software (each as defined below) during the period set forth on the applicable Order, or if none, for 30 days. Beta Software and Evaluation Software are subject to Customer's obligations and restrictions related to Software set forth in Sections 1.1(c) (*Restriction on Software or Other Offerings*) and 1.3 (*Software or Other Offerings in General*) and elsewhere in this Agreement. CUSTOMER IS NOT REQUIRED TO USE BETA SOFTWARE OR EVALUATION SOFTWARE. IF CUSTOMER DOES SO, THE FOLLOWING TERMS APPLY: (i) THE BETA SOFTWARE AND EVALUATOIN SOFTWARE ARE PROVIDED "AS IS," WITH NO PROMISE, REPRESENTATION, WARRANTY, OR INDEMNITY WHATSOEVER; (ii) BEYONDTRUST HAS NO RESPONSIBILITY OR LIABILITY ARISING OUT OF OR RELATED TO BETA SOFTWARE OR EVALUATION SOFTWARE; (iii) Customer shall reasonably answer BeyondTrust's questions regarding use of the Beta Software; and (iv) BeyondTrust shall use Evaluation Software only for internal evaluation purposes, to decide whether to purchase rights to the underlying Software. BeyondTrust may suspend or terminate the license granted in this Subsection 1.2(b) at any time and for any reason. Customer recognizes and agrees that Beta Software or Evaluation Software may disable itself after a predefined period. ("Beta Software" refers to software so designated on the Order or provided to Customer for feedback. "Evaluation Software" refers to software so designated on the Order or provided to Customer for internal evaluation.) If Customer provides any suggestions, recommendations, ideas, or other feedback (collectively "Feedback") to BeyondTrust regarding the Beta Software, Customer agrees that BeyondTrust may use and incorporate into the Software any Feedback that Customer provides, and Customer shall not be entitled to any compensation. Customer hereby grants to BeyondTrust, free of charge, all rights to the Feedback. Licensor may suspend or terminate the Beta Software at any time.

1.3   *SOFTWARE OR OTHER OFFERINGS IN GENERAL.* Customer is responsible and liable for the acts and omissions of its Personnel and Clients related to the Software or Other Offerings. Customer's rights to On-Premise Software are limited to binary code. In its use of Cloud Services, Customer is solely responsible and liable for (1) preserving the secrecy of its usernames and passwords and (2) any activity that occurs under Customer's account, whether authorized by Customer or not. BeyondTrust may suspend Customer's access to Cloud Services at any time if it believes Customer (including Personnel and Clients) has breached this Agreement. Customer agrees that, to the extent that any applicable mandatory laws give it the right to perform any activity forbidden in this Agreement without BeyondTrust's consent in order to gain certain information about a Software or Other Offering, before exercising any such rights, Customer shall request such information from BeyondTrust in

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a writing detailing the purpose for which Customer needs the information. Only if BeyondTrust denies Customer's request (which it may do at its sole discretion) shall Customer exercise such statutory rights.

2. ADDITIONAL SERVICES.

2.1 *SUPPORT SERVICES.* BeyondTrust shall make available and Customer shall pay fees for Support Services if stated on the Order. Support Services begin on (i) the date BeyondTrust delivers On-Premise Software to Customer, (ii) makes On-Premise Software available for download by Customer, or (iii) sends Customer a password for Cloud Services and end 1 year thereafter (the "Initial Support Term"). Following the Initial Support Term, Support Services automatically renew at BeyondTrust's then-current rates and terms for subsequent 1-year periods, unless either party provides the other with notice of its intent not to renew 30 or more days before expiration of the then-current period. If Customer elects not to extend Support Services and later seeks to reinstate them, Customer shall pay for all Support Services fees it would have paid for continuous Support Services on the Software in question, in addition to the fees applicable for the next year. Customer shall pay Support Services Fees in advance any applicable renewed term of Support Services. Upgrades provided through Support Services will become part of the Software upon installation.

2.2 *PROFESSIONAL SERVICES*. BeyondTrust shall render and Customer shall pay fees for such professional services ("Professional Services") as are required in a statement of work referencing this Agreement or in an Order specifically calling for "professional services" (collectively, an "SOW"). Each SOW is subject to and incorporated into this Agreement. BeyondTrust shall use commercially reasonable efforts to meet the project schedules and times for Professional Services set forth in the SOW, and Customer shall cooperate in good faith, in a timely and professional manner, to facilitate Professional Services. Unless otherwise provided on the Order Form or agreed by the parties in writing, all Professional Services must be completed within 180 days of the applicable SOW's effective date. Unless otherwise specifically stated in the SOW, Professional Services fees do not include expenses. Customer shall reimburse BeyondTrust's reasonable or pre-approved travel and other expenses.

2.3 *E-LEARNING SERVICES*. If called for in an Order, BeyondTrust shall provide e-learning related to the Software or Other Offerings that Customer receives pursuant to this Agreement, for up to one year after execution of the Order, to the extent that BeyondTrust makes e-learning services available to its customers generally.

3. TITLE & IP.

3.1 *OWNERSHIP IN GENERAL.* Copies of the On-Premise Software created or transferred pursuant to this Agreement are licensed, not sold, and Customer receives no title to or ownership of any copy or of the On-Premise Software itself. BeyondTrust retains exclusive ownership of the Software or Other Offerings, including any media on which they are provided to Customer, except to the extent that this Agreement transfers title to Hardware. Customer receives no intellectual property license: (a) to any Software or Documentation provided through Cloud Services; or (b) to any other Software or Other Offering other than as expressly set forth in this Agreement. Customer shall not (i) make any assertion contrary to the preceding sentence, (ii) jeopardize BeyondTrust's proprietary rights in the Software or Other Offerings, or (iii) attempt to acquire any rights to the Software or Other Offerings. Customer acknowledges that the Software and Documentation are works copyrighted under United States federal copyright law and protected by other intellectual property rights and embody valuable confidential and secret information of BeyondTrust and its third party licensors. BeyondTrust will own all rights in any copy, translation, modification, adaptation, or derivation of the Software or Other Offerings or other items of BeyondTrust Confidential Information, including any improvement or development thereof, and Customer shall execute such assignment documents as BeyondTrust reasonably requests to perfect, confirm, or transfer such ownership rights.

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3.2 ***RIGHTS TO HARDWARE.*** Title to purchased Hardware (excluding software thereon and leased or evaluation Hardware) passes to Customer upon delivery and payment of the applicable Fees. For Hardware provided to Customer as part of a lease for a term or for evaluation purposes ("Temporary Hardware"), BeyondTrust retains title. Customer: (a) shall not offer or purport to sell, assign, sub-let, lend, pledge, mortgage, or otherwise part with personal possession of Temporary Hardware; (b) shall maintain Temporary Hardware in good condition, subject to reasonable wear and tear; (c) shall return all Temporary Hardware to BeyondTrust at Customer's expense or pay the retail value for such Hardware not returned or is damaged; and (d) shall not conceal, alter, or make any addition or alteration to Temporary Hardware without BeyondTrust's express written consent.

4. **FEES AND PAYMENTS.** Customer shall: (a) pay the Fees and other charges and expenses set forth in the Order (including any SOW); (b) make all payments within 30 days of the date of each invoice, in full and without deduction or set-off; and (c) pay such reasonable extra fees as BeyondTrust may charge for credit card payments. BeyondTrust may adjust the fees for Cloud Service and/or Support Services at the end of any Software Term by written notice 60 or more days before the beginning of any Renewal Software Term. For amounts unpaid after the due date, Customer shall pay interest equal to the lesser of (i) 1.5% per month from the due date until paid or (ii) the highest rate allowed under applicable law. In addition, if Customer fails to pay Fees for Professional Services, Support Services, or Cloud Services, BeyondTrust may withhold such services. All fees paid or payable to BeyondTrust are exclusive of federal, state, or local excise, sales, use, intangible, value added, or other taxes assessed or imposed with respect to the Software or Other Offerings. Customer is solely responsible for the payment of all taxes resulting from this Agreement or the use of any Software or Other Offering, including without limitation VAT, sales use, gross receipts tax, withholding taxes, and any similar tax, except taxes on BeyondTrust's income. BeyondTrust has no obligation to provide additional products or services while any payment is delinquent. Unless otherwise specified in the Order, all payments shall be made in U.S. dollars, and Customer shall be responsible for all of Customer's bank fees in transmitting payment. If Customer is tax exempt from paying sales, use, or other taxes, Customer must provide BeyondTrust with appropriate evidence of tax exemption for all relevant jurisdictions prior to invoicing.

5. **TERM; TERMINATION.**

5.1 ***TERM.*** This Agreement is effective on the Effective Date and continues until terminated as provided herein. No Software Term or term for Hardware, Support Services, Professional Services or E-Learning services, or other right to any product or service will continue after termination of this Agreement, including without limitation perpetual Software Terms. The initial term for the licenses and subscriptions granted herein commences on the effective date of the applicable Order and continues for the term specified on the Order, or for 1 year if the Order is silent ("Initial Software Term"). If the Initial Software Term is not perpetual, it will renew for successive periods of 1 year, or for such other period as is stated on the Order, (each a "Renewal Software Term") at the end the Initial Software Term or applicable Renewal Software Term, unless either party notifies the other in writing 30 or more days prior to the end of the current Initial Software Term or Renewal Software Term. The Initial Software Term and all Renewal Software Terms are collectively referred to as the "Software Term."

5.2 ***TERMINATION FOR BREACH.*** BeyondTrust may terminate this Agreement: (a) immediately after Customer's breach of Section 1.1 or 1.3 or infringement or misappropriation of BeyondTrust's intellectual property rights; or (b) 30 days after notice to Customer if Customer has breached any other provision of this Agreement and fails to cure such breach within such 30-day period.

5.3 ***EFFECTS OF TERMINATION.*** Upon termination of this Agreement or of a Software Term or license, including without limitation termination for breach of a perpetual Software Term, Customer shall cease all use of the Software in question and any related Documentation and, within 5 days, return to BeyondTrust such Software and Documentation, as well as any leased Hardware provided for use with such Software and any related Confidential Information, or if BeyondTrust so requests, destroy the same and certify the manner, date, and time of destruction in writing. Termination will not release Customer from payment of any amounts incurred as of the

effective date of termination. The following will survive termination of this Agreement: (a) Sections 1, 3, 6, 7, 9, 10, and 11; and (b) and all other provisions which by their nature would extend beyond the term of this Agreement.

6. DISCLAIMER AND LIMITATION OF LIABILITY.

6.1 *DISCLAIMER*. BEYONDTRUST SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AS WELL AS ANY IMPLIED WARRANTY ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BEYONDTRUST DOES NOT WARRANT OR REPRESENT THAT: (a) THE OPERATION OF THE SOFTWARE OR OTHER OFFERINGS WILL BE UNINTERRUPTED OR ERROR-FREE; (b) THAT THE SOFTWARE OR OTHER OFFERINGS WILL OPERATE IN CONJUNCTION WITH ANY OTHER PRODUCT OR SERVICE; OR (c) THAT THE SOFTWARE OR OTHER OFFERINGS ARE SECURE FROM HACKING OR OTHER UNAUTHORIZED INTRUSION. SOFTWARE OR OTHER OFFERINGS ARE PROVIDED "AS IS," AND BEYONDTRUST MAKES NO PROMISES, REPRESENTATIONS, WARRANTIES, OR CONDITIONS, EXPRESSED OR IMPLIED, REGARDING THE SOFTWARE OR OTHER OFFERINGS. CUSTOMER ACKNOWLEDGES THAT THE RECORDING FEATURES OF CERTAIN SOFTWARE MAY SUBJECT CUSTOMER TO LAWS AND/OR REGULATIONS REGARDING THE RECORDING OF COMMUNICATIONS, AND CUSTOMER IS SOLELY RESPONSIBLE FOR COMPLIANCE WITH SUCH LAWS AND/OR REGULATIONS.

6.2 *LIMITATION OF DAMAGES*.

(a) *Excluded Damages.* BEYONDTRUST WILL HAVE NO LIABILITY FOR ANY LOSS OF DATA, LOSS OF PROFITS, OR INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE SOFTWARE OR OTHER OFFERINGS.

(b) *Dollar Cap.* BEYONDTRUST'S CUMULATIVE LIABILITY FOR ALL CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE SOFTWARE OR OTHER OFFERINGS WILL NOT EXCEED THE FEES PAID BY CUSTOMER FOR THE SOFTWARE OR OTHER OFFERING GIVING RISE TO THE CLAIM DURING THE 12-MONTH PERIOD PRECEDING THE FIRST EVENT GIVING RISE TO THE CLAIM.

(c) *Clarifications.* THE LIABILITIES LIMITED BY THIS SECTION 6.2 APPLY: (i) TO LIABILITY FOR NEGLIGENCE; (ii) REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, STRICT PRODUCT LIABILITY, OR OTHERWISE; (iii) EVEN IF BEYONDTRUST IS ADVISED IN ADVANCE OF THE POSSIBILITY OF THE DAMAGES IN QUESTION AND EVEN IF SUCH DAMAGES WERE FORESEEABLE; AND (iv) EVEN IF CUSTOMER'S REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE. BEYONDTRUST WILL NOT BE LIABLE FOR CLAIMS MADE MORE THAN 2 YEARS AFTER THE EVENT GIVING RISE TO THE CLAIM. If applicable law limits the application of the provisions of this Section 6.2, BeyondTrust's liability will be limited to the maximum extent permissible. For the avoidance of doubt, BeyondTrust's liability limits and other rights set forth in this Section 6.2 apply likewise to BeyondTrust's Personnel, parents, subsidiaries, other affiliates, licensors, suppliers, advertisers, agents, sponsors, directors, officers, and other representatives, as well as to Resellers.

7. **INDEMNIFICATION.** As used below in this Section 7: (1) "Indemnified Claim" refers to any claim listed in the first sentence of Section 7.1 or 7.2; and (2) "Associates" refers to a party's officers, directors, shareholders, parents, subsidiaries, agents, successors, and assigns.

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7.1 *INDEMNITY FROM BEYONDTRUST.* Provided Customer is not in breach of this Agreement, BeyondTrust shall defend at its own expense any third party action against Customer or its Associates to the extent based on a claim that Software or Other Offerings, as made available to Customer by BeyondTrust, directly infringe a United States registered copyright or trademark, and BeyondTrust shall pay the costs and damages finally awarded against Customer that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. Notwithstanding the foregoing, BeyondTrust has no responsibility pursuant to the preceding sentence for any Indemnified Claim arising out of or related to: (a) any modification to a Software or Other Offering; (b) compliance with Customer's designs, specifications, or instructions; (c) use of technical information or technology provided by Customer; (d) use of a Software or Other Offering in a manner or with software or hardware prohibited or not approved by BeyondTrust; (e) use of any release of the Software other than the most current made available to Customer; (f) Customer's breach of this Agreement; or (g) claims in which Customer or any Associate or other affiliate has a financial interest.

7.2 *INDEMNITY FROM CUSTOMER.* Customer shall indemnify, defend, and hold harmless BeyondTrust and its Affiliates from and against any claim, suit, or proceeding arising out of, related to, or alleging: (a) any Customer conduct that would breach Section 1.1(b) of this Agreement; or (b) infringement of intellectual property arising out of alleged acts or omissions listed in Subsections 7.1(a) through 7.1(g) above.

7.3 *PROCEDURE*. The party requesting indemnification hereunder ("Indemnified Party") shall: (a) provide the other party ("Indemnitor") with prompt notice of the Indemnified Claim, provided failure to do so relieves Indemnitor of its obligations above only to the extent of any material prejudice; (b) permit Indemnitor to control the defense of the Indemnified Claim; and (c) provide to Indemnitor all available information and assistance reasonably necessary for the defense. Indemnified Party shall have the right, at its sole cost and expense, to participate in the defense and settlement of an Indemnified Claim with counsel of its choice.

8. **IP REMEDIES.** If any Software becomes or, in BeyondTrust's opinion, is likely to become the subject of an injunction preventing its use as contemplated herein, BeyondTrust may, at its option: (a) procure for Customer the right to continue using such Software; (b) replace or modify such Software so that it becomes non-infringing without substantially compromising its functionality; or if (a) and (b) are not commercially practical in BeyondTrust's reasonable opinion, (c) terminate Customer's rights to the allegedly infringing Software. In case of termination pursuant to this Section 8, BeyondTrust shall refund: (i) the license fees paid for perpetual licenses to On-Premise Software, less depreciation at the rate of 1/3 per year, or pro rata for part of the year from the date of payment to the date of removal; or (ii) the prepaid and unused Fees for non-perpetual Software. If BeyondTrust selects the option in Subsection 8(b) or 8(c), Customer shall immediately cease use of the allegedly infringing Software. SECTION 7 AND THIS SECTION 8 SET FORTH BEYONDTRUST'S ENTIRE OBLIGATION AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR ALLEGED OR ACTUAL INTELLECTUAL PROPERTY INFRINGEMENT OR MISAPPROPRIATION BY SOFTWARE OR OTHER OFFERINGS.

9. **CONFIDENTIAL INFORMATION**.

9.1 *CONFIDENTIAL INFORMATION.* "Confidential Information" refers to the following items one party to this Agreement ("Discloser") discloses to the other ("Recipient"): (a) any document Discloser marks "Confidential" or designates as "Confidential" in writing; (b) any information Discloser orally designates as "Confidential" at the time of disclosure, provided Discloser confirms such designation in writing within 5 business days. In addition, BeyondTrust's Confidential Information, as Discloser, includes the Software, any specifications regarding any Software or Other Offering, any pricing information regarding any Software or Other Offering, proprietary algorithms, and any information related to research and development. However, Confidential Information does not include any information Recipient can demonstrate: (i) is in Recipient's possession at the time of disclosure; (ii) is independently developed by Recipient without use of or reference to Confidential Information; (iii) becomes known publicly, before or after disclosure, other than as a result of Recipient's improper action or inaction; or (iv) is approved for release in writing by Discloser.

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9.2 *NONDISCLOSURE.* Recipient shall not, without Discloser's prior written consent (in each instance): (a) publish, disclose, or otherwise divulge Discloser's Confidential Information; or (b) use Discloser's Confidential Information for any purpose other than to support provision and use of Software or Other Offerings as authorized by this Agreement. Recipient shall use at least the same level of care to protect Discloser's Confidential Information as it uses to protect its own sensitive non-public information, but in no event less than reasonable care. Recipient shall promptly notify Discloser of any misuse or misappropriation of Confidential Information that comes to Recipient's attention. Notwithstanding the foregoing, Recipient may disclose Confidential Information as required by applicable law or by proper legal or governmental authority. Recipient shall give Discloser prompt notice of any such legal or governmental demand and reasonably cooperate with Discloser in any effort to seek a protective order or otherwise to contest such required disclosure, at Discloser's expense. For clarity, this Section 9 relates only to the disclosure by one party to another of Confidential Information as defined herein and not to data that Customer or its Clients transmit or access through Software or Other Offerings provided by BeyondTrust.

9.3 *INJUNCTION, RETENTION OF RIGHTS, & DTSA NOTICE.*

(a) *Injunction & Retention of Rights.* Recipient agrees that breach of this Section 9 would cause Discloser irreparable injury, for which monetary damages would not provide adequate compensation, and that in addition to any other remedy, Discloser will be entitled to injunctive relief against such breach or threatened breach, without proving actual damage or posting a bond or other security. This Agreement does not transfer ownership of Confidential Information or grant a license thereto.

(b) *Exception & Immunity.* Pursuant to the Defend Trade Secrets Act of 2016, 18 USC Section 1833(b), Recipient is on notice and acknowledges that, notwithstanding the foregoing or any other provision of this Agreement:

(i) *Immunity.* An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that- (A) is made- (i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

(ii) *Use of Trade Secret Information in Anti-Retaliation Lawsuit.* An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual- (A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.

10. VERIFICATION & AUDIT. Customer acknowledges and agrees that BeyondTrust may verify Customer's compliance with this Agreement through online verification procedures, including without limitation by gathering product information. BeyondTrust may not require either a usage verification or an audit, as described below in this Section 10, more than once per year. This Section 10 does not limit BeyondTrust's rights or remedies for breach of this Agreement.

10.1 *USAGE VERIFICATION.* Within 30 days of BeyondTrust's request, Customer shall provide a certified report detailing Customer's installation and usage of the Software.

10.2 *AUDIT.* BeyondTrust may audit Customer's use of Software or Other Offerings on 30 days' advance written notice. Customer shall cooperate with the audit, including by providing access to any books, computers, records, or other information that relate or may relate to use of Software or Other Offerings. Such audit shall not unreasonably interfere with Customer's business activities. If BeyondTrust discovers unauthorized use, reproduction, distribution, or other exploitation of Software or Other Offerings, in excess of 5% of the copies or fees that would have applied to authorized exploitation, Customer shall reimburse BeyondTrust for the reasonable cost of the audit.

10.3   *COMPENSATION*. If Customer has exceeded the rights granted, Customer shall pay additional Fees, including Support Fees, at BeyondTrust's then-current rates. Customer acknowledges and agrees that BeyondTrust may sell rights to Software or Other Offerings in multiples, and Customer shall pay fees for the number of units that cover at least Customer's usage.

11.   GENERAL PROVISIONS.

11.1   *INDEPENDENT PARTIES*. The parties acknowledge that BeyondTrust is an independent contractor to Customer, and BeyondTrust may engage in other business activities at its sole discretion. This Agreement does not in any way create or constitute a relationship of employment, partnership, or a joint venture between the parties. Customer acknowledges and agrees that: (a) Resellers and BeyondTrust are independent contractors; (b) BeyondTrust has no liability for any act or omission of any Reseller; and (c) Resellers have no power to modify this Agreement or to bind BeyondTrust, including without limitation any power to make any representation, warranty, or indemnity on BeyondTrust's behalf.

11.2   *ASSIGNMENT*. Customer's rights and obligations under this Agreement may not be assigned or transferred (including by operation of law) without BeyondTrust's prior written consent, and any unauthorized assignment or transfer is null and void. BeyondTrust may assign the Agreement or any of its rights and obligations under the Agreement to a third party, and such assignment will become effective upon notice to Customer. Subject to the foregoing, this Agreement or the relevant provisions will be binding upon and inure to the benefit of the parties and their respective successors, executors, heirs, representatives, administrators and permitted assigns.

11.3   *FORCE MAJEURE*. Each party will be excused from performance for any period during which, and to the extent that, it is prevented from performing any obligation or services as a result of causes beyond its reasonable control, and without its fault or negligence, including without limitation, acts of God, strikes, lockouts, riots, acts of war, epidemics, communication line failure and power failures. Nothing in the foregoing shall be deemed to forgive Customer or Customer's obligation to pay any and all fees owed to BeyondTrust under this Agreement.

11.4   *NOTICES*. All notices given pursuant to this Agreement shall be in writing and delivered by hand, by registered or certified mail with proper postage, third party delivery service (e.g. FedEx) or by facsimile (with confirmation copy sent by certified mail), addressed to the signatory at the address set forth on the Order, or such other person and address as may be designated in writing in accordance with this Section 11.4. All such notices will be deemed received upon the earlier of actual receipt or actual delivery to the notice address.

11.5   *GOVERNING LAW; VENUE*. This Agreement and all claims arising out of or related to this Agreement will be governed solely by the internal laws of the State of Georgia, including without limitation applicable federal law, without reference to: (a) any conflicts of law principle that would apply the substantive laws of another jurisdiction to the parties' rights or duties; (b) the United Nations Convention on Contracts for the International Sale of Goods; (c) the 1974 Convention on the Limitation Period in the International Sale of Goods (the "1974 Convention"); (d) the Protocol amending the 1974 Convention, done at Vienna April 11, 1980; or (e) other international laws. The parties consent to the personal and exclusive jurisdiction of the federal and state courts of Fulton County, Georgia. This Section 11.5 governs all claims arising out of or related to this Agreement, including without limitation tort claims.

11.6   *ATTORNEYS' FEES*. Customer shall reimburse BeyondTrust for all reasonable costs (including attorneys' fees) incurred by BeyondTrust in collecting overdue payments from Customer or enforcing its rights under this Agreement.

11.7   *LICENSE TO GOVERNMENT*. The Software and any documentation and e-learning systems are commercial items, as that term is defined in 48 CFR 2.101, consisting of commercial computer software and

commercial computer software documentation, as those terms are used in 48 CFR 12.212. If the Software or any documentation is acquired by or on behalf of the U.S. government or by a U.S. government contractor (including without limitation prime contractors and subcontractors at any tier), then in accordance with 48 CFR 227.7202-4 (for Department of Defense licenses only) and 48 CFR 12.212 (for licenses with all federal government agencies), the government's rights to the Software and such documentation are limited to the commercial rights specifically granted in this Agreement, as restricted by this Agreement. The rights limited by the preceding sentence include, without limitation, any rights to reproduce, modify, perform, display, disclose, release, or otherwise use the Software or documentation. This Section 11.7 does not grant Customer any rights not specifically set forth in this Agreement.

11.8   *COMPLIANCE WITH LAWS.* In its use of Software or Other Offerings, Customer shall comply with all applicable laws, including without limitation laws governing the protection of personally identifiable information. Without limiting the generality of the foregoing, Customer shall comply fully with all export and import laws, regulations, orders, and policies of the U.S. and any other applicable jurisdiction. Customer acknowledges and agrees that it is solely responsible for compliance with any and all import and export restrictions and other applicable laws and that BeyondTrust has no further responsibility after the initial distribution to Customer within the original country of sale. Customer represents and warrants that neither the United States Bureau of Export Administration nor any other federal agency has suspended, revoked, or denied Customer's export privileges. Customer shall not use or transfer Software or Other Offerings for end use relating to any nuclear, chemical or biological weapons, or missile technology unless authorized by the U.S. Government by regulation or specific license.

11.9   *INTEGRATION AND AMENDMENT*. This Agreement and written documents referenced herein (including the Order) constitute the entire agreement of the parties and supersede and extinguish all prior agreements or understandings, representations or warranties, relating to the subject matter hereof. The terms of this Agreement supersede those of any prior contract between the parties related to the Software, as of the Effective Date, except that prior and still active orders related to the Software are incorporated into this Agreement as Orders by this reference. This Agreement may not be modified or amended except (a) by written agreement specifically referring to this Agreement signed by the parties or (b) by Customer's execution of a subsequent electronic agreement provided by BeyondTrust with respect to the same Software or Other Offerings. Customer represents and acknowledges that, in entering into this Agreement, it did not rely on any representations or warranties other than those explicitly set forth in this Agreement. CUSTOMER HEREBY AGREES THAT ANY VARYING OR ADDITIONAL TERMS CONTAINED IN ANY PURCHASE ORDER OR OTHER WRITTEN NOTIFICATION OR DOCUMENT ISSUED BY CUSTOMER IN RELATION TO THE SOFTWARE OR OTHER OFFERINGS WILL BE OF NO FORCE OR EFFECT.

11.10   *PUBLIC RELATIONS*. BeyondTrust may: (a) use Customer's company name, logo, trademark, trade name, service mark, or other commercial designation to indicate the existence of a customer relationship between Customer and BeyondTrust; and (b) place Customer's name or logo in audio and online presentations to potential customers and business partners and in a release to the press. BeyondTrust's use of any Customer trademark will be subject to such reasonable guidelines as Customer may provide directed at avoiding misrepresentation of Customer's brand or identity.

11.11   *CONSTRUCTION*. This Agreement will be construed simply according to its fair meaning and not strictly for or against any party by reason of authorship or for any other reason. References to "including" mean "including, without limitation." If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, the remaining portions of this Agreement shall remain in full force and effect, provided that in such event the parties agree to negotiate in good faith enforceable substitute provisions that most nearly effect the parties' original intent. No waiver of any breach or default hereunder will be considered valid unless in writing and signed by the party giving such waiver, and no such waiver will waive any subsequent breach or default. Nothing expressed or implied in this Agreement will be construed to give rights or remedies to any third party, including without limitation any third party beneficiary rights, except as applicable the parties' respective executors, heirs, representatives, administrators, successors, and assigns.

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11.12 *REPRESENTATIONS*. Customer represents and acknowledges that: (a) it has read and understands this Agreement; and (b) it has had an opportunity to have its legal counsel review this Agreement. In addition, the individual accepting this Agreement on Customer's behalf personally represents that he or she is duly authorized to accept this Agreement on behalf of Customer and that this Agreement is binding upon Customer.

Software License and Subscription Agreement v.1.1.19

EXHIBIT A

DEFINED TERMS

In addition to any other terms defined in Agreement, the following terms have the following meanings:

"Active Login" means use of the BeyondTrust Remote Support Software as described in the applicable Order, by a single service representative, logged in directly or indirectly to the Remote Support server software, at any given time. The number of Active Logins is the number of service representatives accessing the Remote Support server software concurrently.

"Active Endpoints" means the number of Endpoints accessed by the BeyondTrust Privileged Remote Access Software, as described in the applicable Order. "Endpoint" means any network device or computer system, virtual or physical, such as a router, server, storage array, database, or desktop.

"Client" means a direct customer of Customer.

"Cloud Services" means provision of access to and use of the Software, and in some cases the Documentation, remotely over the Internet. Cloud Services do not include or provide On-Premise Software.

"Documentation" means the documents, help files, and other textual matter, in any form or media, that are included with the Software and describe its specifications, functionality, and limitations.

"Effective Date" means the earlier of the following: (i) execution of this Agreement, (ii) the effective date of the first Order, or (iii) the date Customer the Software is first made available to Customer.

"Fee(s)" means the applicable fee (as set forth on the Order) for each Software or Other Offering.

"Hardware" means the computer equipment distributed by BeyondTrust, or by a Reseller on BeyondTrust's behalf, pursuant to an Order. Hardware may contain firmware or software.

"Managed Computer Object" is any physical, virtual, Container or computing device, wired or wireless and regardless of the number of IP addresses assigned, that will be either interacting with software rules, have an agent installed, or be targeted for an assessment. A "Virtual Machine", is a virtual emulation of a physical computer. Virtual Machines exist in virtual environments including but not limited to VMWare Server, Hyper-V, Azure VM's, Amazon AWS VM's, or zOS LPAR's. "Container(s)" is an emulation that occurs at the OS level. This is a contrast to Virtual Machines, which emulate at the hardware level up.

"Managed Devices" means any network device being managed by a Software or Other Offering that is virtual or physical, such as a desktop PC, router, or switch that is not a server OS or functioning as a server of Customer and/or Clients.

"Managed Servers" means any network device being managed by a Software or Other Offering that is (a) acting as a server or running a server-based operating system, virtual or physical, (b) used for serving applications, websites, DNS, Directory Service, DHCP, files, storage arrays, databases or (c) filling any other server-related roles on behalf of Customer and Clients.

"On-Premise Software" means electronically delivered Software provided for installation on computer owned or managed by Customer. On-Premise Software does not include Cloud Services or any software provided through Cloud Services.

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"Order" means an ordering document executed by Customer and BeyondTrust, or a Reseller, on BeyondTrust's standard order form, referencing this Agreement and calling for provision of one or more Software or Other Offerings; provided a Customer purchase order for the second or later purchase under this Agreement will become an Order upon execution by BeyondTrust or a Reseller.

"Personnel" means individual employees, contractors, and agents of an entity, acting solely on behalf of such entity.

"Reseller" means a reseller of the Software authorized by BeyondTrust. As between the parties, BeyondTrust has sole and complete discretion to grant or terminate Reseller status.

"Software" means the applicable object code form of the BeyondTrust software as listed on the Order.

"Software or Other Offerings" means: (a) Software and Documentation, in each case whether provided as or with On-Premise Software or via Cloud Services; (b) Hardware; (c) deliverables provided through Professional Services; and (d) the Professional Services, Support Services, and e-learning services.

"Software Term," "Renewal Software Term," and "Initial Software Term" are defined in Section 5.1.

"Support Services" means the services set forth at www.beyondtrust.com/supportservices as of the date of provision of service, at the level of support listed on the applicable Order.

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